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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,221	09/28/2001	Thomas S. Laubner	17655	5888

7590 04/25/2003

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EXAMINER

WIMER, MICHAEL C

ART UNIT	PAPER NUMBER
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2821

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/966,221

Applicant(s)

LAUBNER ET AL.

Examiner

Michael C. Wimer

Art Unit

2821

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

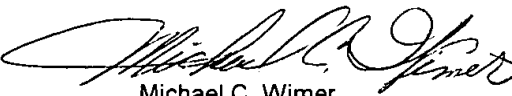
Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-23.

Claim(s) withdrawn from consideration: none.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Michael C. Wimer
Primary Examiner
Art Unit: 2821

Continuation of 2. NOTE: The additional claims 24-36 recite subject matter neither considered nor addressed in the Final Office action rejection. The specific range of angles and gain values are new in the prosecution. A new search is required for the values now claimed, since there is a specific definition for "low angles" (e.g., in Claim 1) These new limitations also require further consideration as to the beam direction produced by the antenna.

Continuation of 5. does NOT place the application in condition for allowance because: the limitation to "low angles" does not preclude the use of the Niehenke patent. No reference (e.g., zero degrees elevation) and specific angle relative to the reference is particularly specified in the claims. Applicant's arguments are directed to "the zenith", "to focus low angle radiation", etc., but the claims do not set forth any reference or setting of use for the antenna. All claims present a microstrip antenna and in combination with a lens without any mention of specifics to reference angle, a zenith, etc. Thus, the arguments are not commensurate with the scope of the claims at hand. A skilled artisan would find it obvious to use the Niehenke on a vehicle, as in a radar system or electronic countermeasures system and point it to the road or parallel thereto. The antenna would be responsive to "low angle" radiation, in such a scenario (particularly without any reference plane or angle being recited). Also, the term "encapsulate" does not necessarily imply that the lens must touch the patch. The lens may be spaced from the patch and still encapsulate the patch. Applicant's own embodiment, Fig. 4, shows an air gap 34 between patch 12 and lens. 20.